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AUG 11 2004

In re Application of :
Wang et al. :
Application No. 10/786,533 :
Filed: February 25, 2004 :
Attorney Docket No. 125.021US02 :
:

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed June 8, 2004, requesting that the above-identified application be accorded a filing date of February 25, 2004, rather than the presently accorded date of February 26, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 25, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV385201454US showing a handwritten "date-in" of "February 26, 2004" as well as a "February 25, 2004" Minneapolis, MN USPS date stamp. Additionally, the same Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated February 25, 2004 on the cover page for the application papers.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on February 25, 2004 at the Minneapolis, MN USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 25, 2004. Accordingly, the instant application is entitled to a filing date of February 25, 2004, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require payment of a petition fee. Accordingly, the \$130.00 submitted will be credited to the petitioner's deposit account as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for further processing with a filing date of February 25, 2004, including mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy